IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Criminal Application No. 1345 of 2007

Sangeeta Swaroop Kapoor Vs. State

Office Notes, Office Memoranda of Coram, appearances, Court orders or directions and Registrar's orders

Court's or Judge's orders

Shri Amol Mardikar Adv. for applicant.
Shri Thakare APP for State.

CORAM: C. L. PANGARKAR J.
Dated: 4th August, 2007.

This is an application for condonation of delay in filing revision.

Present applicant had filed Criminal Complaint Case No. 2/03 before the Judicial Magistrate First Class under Section 420, 465, 468 and 471 of Indian Penal Code. After the complaint was filed the trial Court issued process against the respondent/accused under the above sections. Accused/respondent preferred Criminal Revision no. 78/03 before the Court of

Sessions. Court of Sessions set aside the order of the Magistrate with regard to Section 420 of the Indian Penal Code and confirmed rest of the order.

After this decision was rendered in the revision by the Sessions Judge, the accused/respondent preferred Criminal Application under Section 482 being Criminal Application No. 3563/06 before this Court.

The order which is under challenge in this revision application is dated 14.07.06. The applicant had applied for obtaining certified copy on 10.08.06. She got the certified copy on 17.08.06 and Criminal Revision has been filed on 07.05.07. There is thus delay of 200 days.

Learned counsel for the applicant submitted that from 30.03.07 to 30.04.07 the applicant had fallen ill and therefore could not file a revision. It was also submitted that since the other side had already preferred Criminal Application under Section 482 Criminal Procedure Code she was under impression

that she could not challenge the order as far as rejection of the prayer of issue of process under Section 420 was concerned. It was submitted that it was under a bonafide mistake that she did not prefer a revision within time even though she had obtained the copy. He submitted that it is only after the advise of the lawyer that she decided to prefer this separate revision.

Learned counsel for the respondent/accused submitted that there is no explanation of delay and no sufficient cause has been shown by the applicant for not taking any action right from 17.08.06 to 29.03.07. Relied on a decision in *State of Nagaland Vs. Lipok AO And Others 2005 Supreme Court Cases (Crimes) 906,* it has been held by the Supreme Court that in every case sufficient cause for condonation of delay must be put forth and length of delay in such cases become relevant.

In this particular case it is a fact that accused

has preferred a separate Criminal Application No. 3563/06 challenging the same order which is under challenge in this revision. The applicant has given an explanation that she was under a bonafide belief that since that order has been challenged by the accused, she may not be able to prefer a revision. This impression on the part of the applicant cannot be said to be unfounded or baseless. If she had never intended to prefer any revision she would not have even care to obtain certified copy. The fact that she had obtained certified copy quite early and it may be because of the lack of advise that she may not be able to prefer revision in time. In view of the fact that the cause is sufficient cause and particularly when very same order is under challenge in other Criminal Application No. 3563/06, in view of this, application is allowed. Delay stands condoned. Applicant to pay costs of Rs.1000/-. The said costs should be deposited in High Court Legal Aid Services Sub Committee

Nagpur. List both the applications for admission in the week commencing from 17.09.07.

JUDGE

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